

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:07cv219**

<b>MICHAEL A. KITCHEN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>FARRELL LOG STRUCTURES LLC,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**THIS MATTER** is before the court on Romallus O. Murphy's Motion to Reconsider Motion to Withdraw. Earlier, the undersigned denied Mr. Murphy's Motion to Withdraw without prejudice in hopes that the relationship between attorney and client could be reconciled. On April 22, 2008, plaintiff's deposition was reconvened in the courthouse and he appeared without counsel.

In accordance with Rule 30(d)(3), Fed.R.Civ.P., counsel for defendant promptly reported to court on the morning of the reconvened deposition that plaintiff was without his attorney, but that plaintiff had fired such attorney on the record and had express his desire to continue with the deposition and give his testimony. Finding that continuing with the deposition was proper under all the circumstances, the court instructed defendant's counsel to continue on with the noticed deposition.

Based upon all the pleadings submitted by Mr. Murphy, the lack of communication by plaintiff to Mr. Murphy that he was well enough to attend the deposition, and the unequivocal expression of plaintiff that he no longer wants Mr.

Murphy's counsel, the court does not now believe that there is an attorney-client relationship that can be revived between Mr. Murphy and plaintiff. Mr. Murphy will, therefore, be relieved of further representation of plaintiff in this matter.

In granting such request, the court notes that plaintiff is losing the experience and counsel of an attorney who has brought more than a dozen similar cases in this district in the last decade. Plaintiff will be hard-pressed to find an attorney with Mr. Murphy's years and depth of experience in this area of the law. In allowing the withdrawal, the court does so reluctantly, and thanks Mr. Murphy for his years of faithful service to the Bar of this court and the people of the Western District.

\* \* \*

Plaintiff is now advised that until he retains counsel, he is proceeding *pro se*. As a *pro se* plaintiff, plaintiff now carries the burden of moving his case forward, complying with the Local Rules and the Federal Rules of Civil Procedure, and with complying with the terms of the Pretrial Order and other Orders entered by this court. Plaintiff is further cautioned that his failure to move the case forward, fully participate in discovery, or fully comply with any of the above mentioned rules or Orders may well result in dismissal of his case. Plaintiff is encouraged to seek out new counsel inasmuch as deadlines are quickly approaching, including mediation, discovery, dispositive motions, and trial.

## ORDER

**IT IS, THEREFORE, ORDERED** that Romallus O. Murphy's Motion to Reconsider Motion to Withdraw (#17) is **ALLOWED**, and Mr. Murphy is respectfully **RELIEVED** of further representation of plaintiff in this matter.

Mr. Murphy is respectfully instructed to send a copy of this Order by certified mail to plaintiff, and to confirm such with the Clerk of this court in an appropriate filing that includes plaintiff's last known address and phone number.

Signed: April 22, 2008

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

